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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/716,775	11/20/2000	Teruo Tobe	FUJZ 17.968	8293

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EXAMINER

MOSLEHI, FARHOOD

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 02/12/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/716,775

Applicant(s)

TOBE ET AL.

Examiner

Farhood Moslehi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 11-20-00.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-9 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Nielsen (US 2001/0003830) (hereinafter Nielsen).

4. As per claim 1, Nielsen discusses a network control apparatus comprising:
A detector for detecting a packet passing through a network and a fact that a whole traffic quantity exceeds a predetermined threshold value, a database for holding packet per-user-information detected by the detector, a bandwidth managing portion for detecting a bandwidth occupant based on the per-user-information in the database and for selecting a corresponding

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bandwidth control method when the detector has detected that the whole traffic quantity has exceeded the predetermined threshold value, and a bandwidth controller for performing a bandwidth control to the bandwidth occupant based on the bandwidth control method selected by the bandwidth manager portion (e.g. Paragraphs 46, 47 and 53, Database schema is organized based on the client “user” file information).

5. As per claim 2, Nielsen teaches the network control apparatus wherein the detector has a variable value as the predetermined threshold value (e.g. Paragraph 54).

6. As per claim 3, Nielsen teaches the network control apparatus wherein the database has a utilizing status table per user including at least one of an average traffic quantity, an average communications data quantity, and average packet number, an average connection number, and an average session time as a parameter of the per-user-information (e.g. Paragraph 47).

7. As per claim 4, Nielsen teaches the network control apparatus wherein the database includes a user ranking table indicating a ranking of users in respect of each parameter in addition to the utilizing status table (e.g. paragraph 47).

8. As per claim 5, Nielsen teaches the network control apparatus wherein the bandwidth managing portion detects a highest ranking bandwidth occupant at one specified parameter based on the user ranking table, determines whether or not a value of another parameter exceeds a corresponding predetermined threshold value by referring to the utilizing status table per user when the value of the specified parameter at this time exceeds a corresponding predetermined threshold value, gives points indicating a bandwidth occupation degree when the threshold value is exceeded, and selects the bandwidth control method on the point at this time (e.g. paragraphs 61 and 64).

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9. As per claim 6, it is rejected for similar reasons as stated above.

10. As per claim 7, Nielsen teaches the network control apparatus wherein the database has a total point table per user indicating a correspondence between each user and the total point (e.g. paragraph 62, the priority multiplier acts as a point system that corresponds to the content and user priority).

11. As per claim 8, Nielsen teaches the network control apparatus wherein the database has a total point table per user indicating a correspondence between each user and the total point (e.g. paragraph 58).

12. As per claim 9, Nielsen teaches the network control apparatus wherein when the whole traffic quantity is less than the predetermined threshold value after performing the bandwidth control, the bandwidth controller sequentially releases the bandwidth control in order from a user with smaller point based on the total point table per user, whereby the bandwidth managing portion clears the point of the user of which bandwidth control is released (e.g. paragraphs 61 and 65).

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent Number 6,424,624 to Galand et al.

US Patent Number 6,625,643 to Colby et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farhood Moslehi whose telephone number is 703-305-8646.

The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 703-305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5484.

fm



**JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100**